

vs.

Myrtle Rose, D.P.M.

Agreed Order

Myrtle Rose, D.P.M. of 9941 Whitehurst, #1006, Dallas, Texas, 75243, is a podiatric physician practicing in the State of Texas under Texas State Board of Podiatric Medical Examiners License #1031. On or about December 1, 1995, Dr. Rose entered into an agreement with one Anibowei Peredisabofa (Administrator) and Emmanuel Essel (part-owner) of Hi Tech Home Health Services, 10925 Estate Lane, #390, Dallas, Texas, 75238, and became the Medical Director for Hi Tech Home Health Services at the above address. From December 1995 through approximately June of 1996, Dr. Myrtle Rose, while acting as the Medical Director for Hi Tech, did prescribe home health care by countersigning Medicare plans of care and supplemental verbal orders for patients that she had never seen. These patients were part of the Parkland Hospital system in Dallas, and Dr. Myrtle Rose had no formal or informal connection with Parkland. There was no communication between Dr. Rose and Parkland physicians about the patients. Additionally, the orders neither described treatment of the human feet nor were the orders limited to treatment of the feet. These orders were not countersigned due to any emergency medical situation.

The Texas State Board of Podiatric Medical Examiners notified the licensee, Dr. Myrtle Rose, of the nature of the allegations and possible violations involved and afforded her an opportunity to respond to the charges. The licensee's response was received. The allegations and responses were considered and it was determined to institute formal proceedings against the licensee in accordance with the APA. Notice of all allegations was given to the licensee, who was also advised of entitlement to legal representation and to a formal hearing.

It is now the express desire of the licensee to waive a formal adjudicatory hearing and to enter into the following Agreed Order. In waiving an adjudicatory hearing, Dr. Myrtle Rose acknowledges understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

FINDINGS OF FACT:

1. Dr. Myrtle Rose is a podiatric physician licensed by the Texas State Board of Podiatric Medical Examiners to practice podiatric medicine in the State of Texas and is therefore subject to the jurisdiction of the Texas State Board of Podiatric Medical Examiners and the Podiatric Medical Practice Act of Texas and associated rules.
2. A complaint was filed against Dr. Myrtle Rose and she was provided with an opportunity to respond to the complaint and to show compliance with the law.

3, After discussion of the matters outlined in this Order, and subsequent communications, the Board and Dr. Myrtle Rose, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order, dispensing with the need for further action in this matter. By her signature on this Order, Dr. Myrtle Rose does hereby waive her right to a formal hearing before the State Office of Administrative Hearings, and judicial review of this Order.

4. Between the dates of December 1, 1995 and June 30, 1996, Dr. Myrtle Rose, while acting as the Medical Director for Hi Tech Home Health Care Services did prescribe home health care by countersigning Medicare plans of care and supplemental verbal orders for patients that she had never seen. These patients were part of the Parkland Hospital system in Dallas, Texas, and Dr. Myrtle Rose had no formal or informal connection with Parkland Hospital. There was no communication between Dr. Myrtle Rose and Parkland physicians about patients. The orders neither described treatment of the human feet nor were the orders limited to treatment of the human feet. Dr. Rose also signed orders for patients that were within her scope of practice, but where she had never seen the patient. None of these orders were countersigned due to any emergency medical situation.

5. By countersigning the aforementioned Medicare plans of care, Dr. Myrtle Rose was practicing medicine outside of the scope of practice for podiatric medicine in the State of Texas, in that the orders were not for, or limited to treatment of the human feet.

CONCLUSIONS OF LAW:

1. Dr. Myrtle Rose is bound to follow the provisions of the Podiatric Medical Practice Act, Tex. Civ. Stat. Ann., Art. 4567, and Associated Rules:
2. Art. 4567 and §376.22 Tex. Adm. Code provides for the disciplining of a licensee who violates this Board's Statute and/or Rules.
3. Dr. Myrtle Rose's practice of countersigning Medicare plans of care and supplemental verbal orders for patients she had never seen and for procedures that were beyond her scope of practice is a violation of Art. 4567 and §375.2, 22 T.A.C.

ORDER:

NOW, THEREFORE, it is the ORDER of the Texas State Board of Podiatric Medical Examiners that Dr. Myrtle Rose (License # 1031) have her license to practice podiatric medicine in this state suspended for a period of two (2) years from the date the Order is entered, with all such suspension probated, provided that she complies with the following conditions:

- a. During the two (2) year period of her suspension and probation, Dr. Myrtle Rose will annually report, in person to the Board to discuss her compliance with the conditions of her probation and to answer any questions that the Board may have.
- b. During the two (2) year period of her suspension and probation, Dr. Myrtle Rose will provide a bi-annual written report to the Board on the state of her practice. This report should include such information as; how many patients she is presently servicing, what percentage of her patients are in nursing homes, etc.

c. Within thirty (30) days of signing this Order, Dr. Myrtle Rose shall submit a written report to the Board which shall be on the subject of, and titled; "Scope of Practice for Podiatric Physicians in Texas".


d. During the two (2) year period of her suspension and probation, Dr. Myrtle Rose will obey and abide by all laws governing the practice of podiatric medicine and the Rules of the Board; and

e. Dr. Myrtle Rose agrees that any violation of this Order within the two (2) year period of suspension and probation may result in a hearing and that the hearing may result in revocation of the probation and the imposition of the remaining portion of the suspension or other disciplinary action. The Board represents that there are no formal or informal complaints pending or in its files that are deemed potentially violative of this probation as of the date of signature.

THIS ORDER IS A PUBLIC RECORD.

I, MYRTLE ROSE, D.P.M. HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: SEPTEMBER 12th 1996



MYRTLE ROSE, D.P.M.

STATE OF TEXAS

COUNTY OF DALLAS

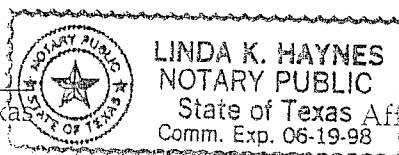
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BEFORE ME on this day personally appeared Myrtle Rose, D.P.M. known to me, who, first, being duly sworn, signed the foregoing Agreed Order in my presence.

SIGNED on this the 12th day of SEPTEMBER 1996.

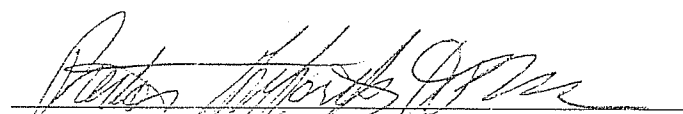


NOTARY PUBLIC, in and for the State of Texas



Affix Notary Seal

SIGNED AND ENTERED by the President of the Texas State Board of Podiatric Medical
Examiners on this the 17th day of OCTOBER, 1996.



W. Preston Goforth, D.P.M.
President, Texas State Board of Podiatric Medical Examiners